

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,  Plaintiff,  v.  NELIDA MENDEZ-VAZQUEZ Defendant.	CIVIL NO. 20-cv-1108  False Claims Act, 31 U.S.C. §§ 3729, <u>et seq.</u>
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COMPLAINT

TO THE HONORABLE COURT:

COMES NOW the United States of America, by and through the undersigned attorneys, and very respectfully alleges and prays:

1. Jurisdiction of this action is conferred on this Court by 28 U.S.C. § 1345.
2. Defendant in this case, Nelida Mendez-Vazquez (“Mendez-Vazquez”), was a caregiver and authorized signatory for the Veterans Affairs (“VA”) benefits received by Antonio Mendez-Vazquez, a recipient of VA pension benefits. Mendez-Vazquez is currently a resident of Trujillo Alto, Puerto Rico.
3. VA pension benefits beneficiary Antonio Mendez-Vazquez passed away in June of 2007.
4. After Antonio Mendez-Vazquez passed away, her caregiver and VA pension benefits signatory Mendez-Vazquez failed to notify the VA of the death of Antonio Mendez-Vazquez and instead of returning the VA pension benefits payments received after his death, continued to endorse and cash the VA pension benefits checks issued to Antonio Mendez-Vazquez

from the time he passed away until October of 2014.

5. The total amount of VA pension benefits payments of Antonio Mendez-Vazquez that Mendez-Vazquez illegally cashed amounts to the sum of \$147,000.00. The United States contends that the presentation of the checks for payment, and the subsequent cashing of the checks constitute the submission of false claims under the False Claims Act, 31 U.S.C. §§ 3729 et seq.

### **CLAIM FOR RELIEF**

6. The United States refers to an incorporates by reference, the allegations contained in Paragraphs 1 through 5 of this complaint as though fully set forth herein.

7. This is a claim for damages and civil monetary penalties under the False Claims Act, 31 U.S.C. § 3729(a)(1).

8. As part of the scheme to defraud and described in the above referenced Paragraphs, Mendez-Vazquez's presentation and subsequent cashing of the VA pension benefits checks caused false claims to be submitted to the VA for benefits entitlement that she was not eligible for under applicable VA benefits programs.

9. Under the FCA, a "claim" includes the presentation of checks and/or requests for money presented to agents of the United States or to a contractor, grantee, or other recipient, if the money is to be used on the government's behalf or to advance a government interest, as long as the United States provided any portion of the money requested. Furthermore, the presentation and subsequent cashing of checks related to government benefit programs by ineligible individuals or entities when these benefits are no longer legally available to authorized beneficiaries are considered the presentation of false claims under the FCA. As such, the United States is entitled to treble damages under the FCA for the loss caused to the government.

10. Moreover, under the FCA each of these false claims constitute, via the presentation and cashing of the benefits' checks, the submission of false claims to the government for which damages and civil monetary penalties must be assigned in an amount ranging between \$11,181.00 up to \$22,363.00 each.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, the United States of America respectfully requests that judgment be entered in its favor and against Melendez-Vazquez (Defendant) as follows:

a. Orders Melendez-Vazquez to pay \$147,000.00 as damages and \$22,363.00 as a civil monetary penalty; plus post judgment interest at the prevailing legal rate; in addition to costs and attorney fees or the 10% surcharge imposed by law if Plaintiff is forced to use the remedies provided under subchapters B or C of the Federal Debt Collection Procedures Act of 1990 (28 U.S.C. § 3011).

b. Grants any other further relief as this Honorable Court deems just and proper.

RESPECTFULLY SUBMITTED,

In San Juan, Puerto Rico, this 26th day of February of 2020.

W. STEPHEN MULDROW  
United States Attorney

/s Jorge L. Matos  
Jorge L. Matos  
Assistant U.S. Attorney  
Civil Division  
USDC No. G01307  
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350 Carlos Chardon Avenue  
San Juan, PR 00918  
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**Attachment 1: Civil Cover Sheet**

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)  
Assistant U.S. Attorney Jorge L. Matos  
Torre Chardon, Suite 1201, 350 Carlos Chardon Ave.  
San Juan, PR 00918**DEFENDANTS**

Nelida Mendez-Vazquez

County of Residence of First Listed Defendant Trujillo Alto, PR  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)          |
| <input type="checkbox"/> 2 U.S. Government Defendant            | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 425 Drug Related Seizure of Property 21 USC 881	<input checked="" type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 445 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>PERSONAL PROPERTY</b>	<b>LABOR</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b>	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>Other:</b>	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 864 SSID Title XVI	
		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 865 RSI (405(g))	
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			<b>FEDERAL TAX SUITS</b>	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			<b>IMMIGRATION</b>	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

**V. ORIGIN** (Place an "X" in One Box Only)

- |  |   |  |   |  |  |   |
|--|---|--|---|--|--|---|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation - Transfer | <input type="checkbox"/> 8 Multidistrict Litigation - Direct File |
|--|---|--|---|--|--|---|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
31 USC Section 3729(a)(1)**VI. CAUSE OF ACTION**Brief description of cause:  
Submission of False Claims under the FCA**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION  
UNDER RULE 23, F.R.Cv.P.

DEMAND \$

169,363.00

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

02/26/2020

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT \_\_\_\_\_

APPLYING IFFP

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

**Attachment 2: Category Sheet**

**UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO**

**CATEGORY SHEET**

**You must accompany your complaint with this Category Sheet, and the Civil Cover Sheet (JS-44).**

Attorney Name (Last, First, MI): Matos, Jorge L.

USDC-PR Bar Number:

Email Address: Jorge.L.Matos2@usdoj.gov

1. Title (caption) of the Case (provide only the names of the first party on each side):

Plaintiff: United States of America

Defendant: Nelida Mendez-Vazquez

2. Indicate the category to which this case belongs:

Ordinary Civil Case

Social Security

Banking

Injunction

3. Indicate the title and number of related cases (if any).

N/A

4. Has a prior action between the same parties and based on the same claim ever been filed before this Court?

Yes

No

5. Is this case required to be heard and determined by a district court of three judges pursuant to 28 U.S.C. § 2284?

Yes

No

6. Does this case question the constitutionality of a state statute? (See, Fed.R.Civ. P. 24)

Yes

No

Date Submitted: 2/26/20

rev. Dec. 2009